



23 APR 2003

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In re Application of :
RUSHEFSKY, Larry, et al. :
U.S. Application No.: 09/936,634 : DECISION ON RENEWED
PCT No.: PCT/US00/07310 : PETITION UNDER
International Filing Date: 17 March 2000 : 37 CFR 1.47(a)
Priority Date: 17 March 1999 :
Attorney's Docket No.: IO-1013US :
For: INTEGRATED AND MULTI-AXIS SENSOR :
ASSEMBLY AND PACKAGING :
: :
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This decision is issued in response to the renewed petition under 37 CFR 1.47(a) filed 06 December 2002. No additional petition fee is required.

BACKGROUND

The procedural background for this application is set forth in detail in the decision mailed by this Office on 06 September 2002. In that decision, applicant's original petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition under 37 CFR 1.47(a). Specifically, the decision held that applicant had failed to demonstrate that the nonsigning inventor had refused to execute the application, and had failed to provide an express statement of the nonsigning inventor's last known address.

On 06 December 2002, applicant filed the renewed petition considered herein.

DISCUSSION

The materials submitted with the renewed petition (relating to additional efforts made by applicants to obtain the signature of the nonsigning inventor after the previous decision), taken in combination with the previous petition, provide adequate evidence that the nonsigning inventor has refused to sign the application papers after being provided with a copy of such application. The renewed petition also contains an express statement of the nonsigning inventor's last known address. Accordingly, item (2) and item (4) of the requirements of a grantable petition under 37 CFR 1.47(a), as set forth in the 06 September 2002 decision, have now been satisfied.

However, upon further review, a defect has been identified in the declaration filed by applicants on 04 June 2002. Specifically, the inventor identified in the published international application as Al LEMKE has executed the declaration under the name Guido LEMKE. The inconsistency in this inventor's name between the declaration and the published international

application renders the declaration filed 04 June 2002 unacceptable. The discrepancy between "Al" and "Guido" is more than a mere typographical error. Accordingly, applicant must provide either a new declaration executed by this inventor in the name which appears on the international application (Al LEMKE) or, in the alternative, a petition under 37 CFR 1.182 requesting that this applicant's name be changed to "Guido LEMKE." Such petition must include an explanation of the discrepancy in the inventor's name, a statement that no deceptive intent was involved, and a \$130 petition fee. If Mr. LEMKE has officially changed his name, then the petition must include an affidavit signed by Mr. LEMKE with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order as well as the petition fee. See MPEP 605.04(c). In the alternative, applicant may also provide a showing that the change was effected under PCT Rule 92bis during the international stage.

The petition under 37 CFR 1.47(a) cannot be granted until an acceptable declaration has been submitted, that is, until the discrepancy with respect to Mr. LEMKE's name is properly resolved.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(a)" and should include either a new copy of the declaration executed by inventor Al LEMKE, or a grantable petition under 37 CFR 1.182 correcting Mr. LEMKE's name to Guido LEMKE, as discussed above.

No additional petition fee is required. Failure to file a timely response will result in abandonment of the application.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the International Division, Legal Staff.



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